IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WA.No. 1089 of 2003()

AGAINST THE JUDGEMENT IN WPC.15930/2003 Dated 28/05/2003
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APPELLANT: PETITIONERS
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1. A.M.DIVAKARAN,
MUKUND NIVAS, WEST PONNIAM P.O.,
THALASSERY, KANNUR DISTRICT.

2. A.M.RAVEENDRAN,
MUKUND NIVAS, WEST PONNIAM P.O.,
THALASSERY, KANNUR DISTRICT.
(APPELLANTS ARE REPRESENTED BY THEIR POWER OF ATTORNEY HOLDER, SRI.K.V.PREMACHANDRAN).

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS: RESPONDENTS:
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1. TAHSILDAR, THALASSERY.

2. TAHSILDAR,
REVENUE RECOVERY, THALASSERY.

BY SPL. GOVERNMENT PLEADER(TAXES) SRI V.V.ASHOKAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A.No.1089 of 2003

Dated, this the 14th day of June, 2007

JUDGMENT

H.L. DATTU, CJ.

This appeal is directed against the orders passed by a learned Single Judge in W.P.(C) No.15930/2003 dt. 28.5.2003. The learned Judge, while disposing of the writ petition, had made certain observations.

2. The grievance of the appellants before us is that the learned Single Judge, while allowing the writ petition, ought not have made such observations which would come in the way of the petitioner.

3. The respondent authority viz. The Tahsildar, Thalassery had completed the assesssment in the petitioners' case under the provisions of the Kerala Building Tax Act and the Rules framed thereunder.

4. Taking the view that the orders so passed requires modification, the Tahsildar had issued a notice under sec.15(3) of the Act and also had ordered for revenue recovery proceedings. Aggrieved by the action of the Tahsildar in issuing the notice under sec.15(3) of the Act and also the revenue recovery proceedings, the petitioners were before this court.

5. The primary contention of the petitioners in the writ petition was that the Tahsildar, without issuing a notice under sub-sec.(1) of sec.15 of the Act, should not have straight away issued a notice under sec.15(3) of the Act. The contention so canvassed by the petitioners' learned counsel was accepted by the learned single Judge. But, while allowing the writ petition, the learned Judge had proceeded to make certain observations which, in our view, would definitely come

in the way of the petitioners filing their objections, if any, to the notice that may be issued by the Tahsildar. Therefore, we modify the orders passed by the learned Single Judge as under:

Order

i) Writ appeal is disposed of.

ii) we direct the petitioners to treat the notice issued by the Tahsildar dt. 4.12.2002 as a notice issued under sec.15(1) of the Act, and file objections, if any, to the said notice within a month from the date of receipt of a copy of this order.

Iii) If such objections are filed by the petitioners within the time granted by this court, the Tahsildar, Thalassery is directed to consider those objections and pass appropriate orders in accordance with law.

We make it clear that while passing the order, the Tahsildar shall not be influenced by any one of the observations made by this court while disposing of W.P.(C) No.15930/2003. All the contentions are left open.

I.A.No.644/2003 will stand dismissed. Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/-

H.L. DATTU, C.J. &
K.T. SANKARAN, J.

W.A. 1089 OF 2003

JUDGMENT

14.6.2007